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10/658,344

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Jeanette Gee

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EXAMINER

HICKS, CHARLES N

ART UNIT

PAPER NUMBER

2424

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/658,344

Applicant(s)

GEE, JEANETTE

Examiner

CHARLES N. HICKS

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-43 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1 and 3-43 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 09 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 3-43 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1, and 3-43 rejected under 35 U.S.C. 103(a) as being unpatentable over Ford (US Patent No. 6,519,770 B2), hereinafter referred to as Ford, in view of Ellis (US Patent No. 7,370,343 B1), hereinafter referred to as Ellis.

5. Regarding claim 1, Ford discloses an apparatus for selectively replacing objectionable content in a program received as a first signal with less-objectionable content, comprising: an extraction device receiving at least a portion of the first signal and configured to extract information therefrom (**fig. 6, col. 7, lines 45-68**);
- a replacement control device (**fig. 1-6, col. 4, lines 46-68, col. 5, lines 1-9**);
 - a processor operatively coupled to said replacement control device and communicatively coupled to said extraction device for receiving at least a portion of said extracted information therefrom (**fig. 1-6, col. 8, lines 10-44**);
 - a memory coupled to said processor and storing a replacement criterion (**fig. 1-6, col. 4, lines 62-68, col. 5, lines 1-9**);
 - said processor programmed to identify replacement information in said extracted information (**fig. 1-6, col. 8, lines 10-44**);
 - a second signal including said less-objectionable content communicatively coupled to said replacement control device (**fig. 1-6, col. 3, lines 65-68, col. 4, lines 1-24**);
 - said processor programmed to cause said replacement control device to replace a portion of the first signal with said second signal in response to identifying replacement information that satisfies said replacement criterion (**fig. 1-6, col. 8, lines 10-44**).

However Ford is silent in regards to disclosing wherein said less-objectionable content comprises advertising. Ellis discloses wherein said less-objectionable content

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comprises advertising (**fig. 1, col. 5, lines 22-45**). Motivation to combine the references is due to the fact that they attempt to customize the programming displayed to the user by substituting suitable replacement content. Therefore the invention would have been obvious to one of ordinary skill in the art at the time of the invention.

6. Regarding claims 3 and 25, Ford discloses the apparatus wherein said first signal is selected from the group consisting of: a video signal, an audio signal, a broadband signal, an optical signal, an amplitude modulated signal, a frequency modulated signal, a phase-modulated signal a Digital Radio Broadcast signal, a broadcast television signal, a cable television signal, a RF signal, and an internet signal (**fig. 1-6, col. 6, lines 65-68, col. 7, lines 1-23**).

7. Regarding claims 4 and 26, Ford discloses the apparatus wherein said second signal is selected from the group consisting of: a video signal, an audio signal, a broadband signal, an optical signal, an amplitude modulated signal, a frequency modulated signal, a phase-modulated signal a Digital Radio Broadcast signal, a broadcast television signal, a cable television signal, a RF signal, and an internet signal (**fig. 1-6, col. 3, lines 65-68, col. 4, lines 1-24**).

8. Regarding claims 5 and 27, Ford discloses the apparatus wherein said replacement control device is selected from the group consisting of: a photograph

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replacement device, a holograph replacement device, an audio replacement device, and a video replacement device (**fig. 1-6, col. 4, lines 46-68, col. 5, lines 1-9**).

9. Regarding claims 6 and 28, Ford discloses the apparatus wherein said replacement information is selected from the group consisting of: a photograph replacement information, a holograph replacement information, audio replacement information, and video replacement information (**fig. 1-6, col. 4, lines 46-68, col. 5, lines 1-9**).

10. Regarding claim 7, Ford discloses the apparatus wherein said replacement criterion is selected from the group consisting of: a photograph replacement criterion, a holograph replacement criterion, an audio replacement criterion, and a video replacement criterion (**fig. 1-6, col. 4, lines 46-68, col. 5, lines 1-9**).

11. Regarding claims 8 and 29, Ford discloses the apparatus wherein said replacement information is present in a vertical blanking interval of the first signal (**fig. 1-6, col. 7, lines 45-68**).

12. Regarding claims 9 and 30, Ford discloses the apparatus, wherein said replacement information is present in a line 21 of the first signal (**fig. 1-6, col. 7, lines 45-68**).

13. Regarding claims 10 and 31, Ford discloses the apparatus wherein said replacement information is present in a Text field of the first signal (**fig. 1-6, col. 7, liens 45-68**).

14. Regarding claims 11 and 32, Ford discloses the apparatus wherein said replacement information includes information relating to a duration the first signal is to be replaced in response to said replacement information satisfying said replacement criterion (**fig. 1-6, col. 3, lines 65-68, col. 4, lines 1-14**).

15. Regarding claims 12 and 33, Ford discloses the apparatus wherein said replacement information includes information relating to a word present in the first signal (**fig. 1-6, col. 4, lines 46-68, col. 5, lines 1-9**).

16. Regarding claim 13, Ford discloses the apparatus wherein said information relating to said word is compared with a sensing criterion stored in said memory to determine whether to replace the word in the first signal (**fig. 1-6, col. 4, lines 46-68, col. 5, lines 1-9**).

17. Regarding claims 14 and 34, Ford discloses the apparatus wherein said replacement information represents a word that is present in the first signal in an encoded form (**fig. 1-6, col. 4, lines 46-68, col. 5, lines 1-9**).

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18. Regarding claims 15 and 35, Ford discloses the apparatus wherein said replacement information includes content selected from the group consisting of: information identifying a portion of the first signal having violent content, information identifying a portion of the first signal having sexual content, and information identifying a portion of the first signal having potentially objectionable language (**fig. 1-6, col. 3, lines 65-68, col. 4, lines 1-14**).

19. Regarding claims 17 and 37, Ford discloses the apparatus wherein said replacement information includes information relating to an area of a display screen to be obscured in order to replace the objectionable content (**fig. 1-6, col. 4, lines 14-33**).

20. Regarding claims 18 and 38, Ford discloses the apparatus wherein said area of the display screen is less than the entire display screen (**fig. 1-6, col. 4, lines 14-33**).

21. Regarding claims 19 and 39, Ford discloses the apparatus wherein said replacement information includes information relating to a location in the first signal at which the replacing should begin (**fig. 1-6, col. 3, lines 65-68, col. 4, lines 1-14**).

22. Regarding claims 20 and 40, Ford discloses the apparatus wherein said replacement information includes information relating to a time in the first signal at which the replacing should begin (**fig. 1-6, col. 3, lines 65-68, col. 4, lines 1-14**).

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23. Regarding claims 21 and 41, Ford discloses the apparatus wherein said replacement information includes information relating to a level of intensity of the objectionable content (**fig. 1-6, col. 5, lines 10-43**).

24. Regarding claims 22 and 42, Ford discloses the apparatus wherein: said memory contains a plurality of words stored therein (**fig. 1-6, col. 4, lines 62-68, col. 5, lines 1-9**);

said extraction device is configured to extract a closed caption signal from the first signal (**fig. 6, col. 7, lines 45-68**);

said processor receives said extracted closed caption signal and is programmed to compare words in said extracted closed caption signal with said words stored in said memory (**fig. 1-6, col. 4, lines 62-68, col. 5, lines 1-9**);

and said processor causes said replacement device to replace an audio signal in response to determining that a word stored in said memory is present in said extracted closed caption signal (**fig. 1-6, col. 4, lines 62-68, col. 5, lines 1-9**).

25. Regarding claims 23 and 43, Ford discloses the apparatus wherein said replacement criterion is received from a user (**fig. 1-6, col. 5, lines 27-43**).

26. Regarding claim 24, Ford discloses a method selectively replacing objectionable content in a first signal intended for viewing on a display screen with less-objectionable

content, said method comprising the steps of: storing a replacement criterion in a memory (**fig. 1-6, col. 4, lines 62-68, col. 5, lines 1-9**);

receiving said less-objectionable content as a second signal (**fig. 1-6, col. 3, lines 65-68, col. 4, lines 1-24**);

receiving the first signal (**fig. 6, col. 7, lines 45-68**);

extracting replacement information from the first signal (**fig. 1-6, col. 8, lines 10-44**);

determining whether said replacement information satisfies said replacement criterion (**fig. 1-6, col. 8, lines 10-44**);

and replacing a portion of the first signal with the second signal in response to determining that said replacement information satisfies said replacement criterion (**fig. 1-6, col. 8, lines 10-44**).

However Ford is silent in regards to disclosing wherein said less-objectionable content comprises advertising. Ellis discloses wherein said less-objectionable content comprises advertising (**fig. 1, col. 5, lines 22-45**). Motivation to combine the references is due to the fact that they attempt to customize the programming displayed to the user by substituting suitable replacement content. Therefore the invention would have been obvious to one of ordinary skill in the art at the time of the invention.

27. Claims 16 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ford, in view of Block (US Patent No. 6,675,384 B1), hereinafter referred to as Block.

28. Regarding claims 16 and 36, Ford is silent in regards to disclosing the apparatus wherein said replacement information includes information relating to a channel in which the objectionable content is present. However Block discloses the apparatus wherein said replacement information includes information relating to a channel in which the objectionable content is present (**fig. 7, col. 13, lines 58-68, col. 14, lines 1-6**).

Motivation to combine the references is due to the fact that they both deal with program or information substitution to adequately suit the preference of the user. Therefore the invention would have been obvious to one of ordinary skill in the art at the time of the invention.

Conclusion

29. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES N. HICKS whose telephone number is (571)270-3010. The examiner can normally be reached on M-F 7:30AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art
Unit 2424

CNH